



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SEP 05 2014

Via Email & First-Class Mail

Robert D. Mowrey, Esq.
Kazmarek Mowrey Cloud Laseter
1100 Peachtree Street
Suite 650
Atlanta, Georgia 30309

Re: Phase II Time-Critical Removal Action at the 35th Avenue Superfund Site in Birmingham,
Jefferson County, Alabama (Site)

Dear Mr. Mowrey:

The U.S. Environmental Protection Agency appreciates the response on behalf of your client, Walter Coke, dated August 18, 2014, regarding commencement of the Phase II time-critical removal action at the Site. The EPA understands from your response that Walter Coke is unwilling to participate in the negotiation of a Phase II administrative order on consent (AOC) absent the participation of other potentially responsible parties (PRPs). The remaining PRPs have declined participation in the Phase II work. If Walter Coke (or other PRPs) would like to change its position and negotiate an AOC for the Phase II removal action, the EPA is amenable to engaging in negotiations. Because of the time-critical nature of the Phase II removal action, work will not be suspended during any future negotiations. Instead, parties may take over the EPA's work when the AOC is finalized.

The EPA's findings of liability for Walter Coke remain unchanged since the December 16, 2013, meeting in which the EPA discussed with Walter Coke its liability and contribution to the Site. The agency has held similar meetings with the other PRPs, with the exception of the U.S. Army which was recently noticed. Despite your request, the agency is unable to discuss these liability discussions or the EPA's ongoing PRP search and enforcement strategy with Walter Coke.

The EPA will provide a list of the Phase II time-critical removal properties under separate cover once it is available for distribution. Please be aware that to maximize participation in the negotiation and enforcement process, the EPA urges PRPs to participate in removal and/or remedial actions. In that posture, the agency is better able to facilitate cooperation with the PRPs. Thank you for your attention to this matter.

Sincerely,

Anita L. Davis, Chief
Superfund Enforcement and Information
Management Branch
Superfund Division





HELLO COLE, LINDLEY

Certified Mail Form

US Environmental Protection Agency

Date: 09/05/2014
Date: 09/05/2014

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